

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-1003

January 24, 2001

GEORGE LEE
Appeal of Consumer Assistance Division
Decision #2000-8603 Regarding
Bangor Hydro-Electric Company

ORDER ON APPEAL

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we uphold the Consumer Assistance Division's decision denying George Lee's claim for damages from Bangor Hydro-Electric Company (BHE) and finding that BHE had not violated its obligation to furnish safe, adequate and continuous service.

II. BACKGROUND

On August 1, 2000, the Consumer Assistance Division (CAD) received a complaint from George Lee regarding the damage to his camp in Brownville, Maine as a result of events that occurred in December of 1999. On December 11 and 12, 1999, a significant storm affected the Brownville area. As a result of the weather event, a tree fell on and took down the private line extending to Mr. Lee's cottage. On December 13, 1999, a BHE meter reader discovered that a tree had taken down the service to Mr. Lee's cottage. A repair crew was dispatched and determined that Mr. Lee's equipment had been damaged and needed to be repaired. The repair crew de-energized the line into Mr. Lee's house. Based on BHE's computer generated phone records, it appears that BHE unsuccessfully attempted to contact Mr. Lee in Brownville on and December 17th and at his primary residence in Winthrop, Maine on December 17th and December 28th. A December 28th call to Mr. Lee in Winthrop was successfully completed. Following the successful contact on December 28, 2000, Mr. Lee arranged to repair the damaged equipment. Service was restored to Mr. Lee's residence on January 5, 2000. According to BHE, restoration of service to Mr. Lee's cottage was delayed on January 5th as it was necessary to replace Mr. Lee's below-the-meter circuit breaker which was damaged as a result of the downed wire. Mr. Lee's cottage apparently suffered approximately \$2,500 in damages from frozen pipes during the time his cottage was without power.

On December 4, 2000, the CAD issued a decision finding that BHE had not failed to meet any Commission-mandated obligation in this instance and upheld BHE's denial of Mr. Lee's claim for damages. On December 12, 2000, Mr. Lee filed an appeal with the Commission.¹

III. DECISION

Based on the record before us, we conclude that the CAD's decision in finding that BHE, in this instance, had met its obligations under applicable statutes, rules and the Company's terms and conditions was correct.

Under the Company's Terms and Conditions, BHE is not liable for any interruption in service due to causes beyond its immediate control. BHE Terms and Conditions, Page 5-A, § 3-K, 9th Revision. In addition, it is the customer's obligation to repair or replace damaged equipment on any portion of a privately-owned line that he or she owns. BHE Terms and Conditions, Page 14, 14th Revision, § 12-C. In this instance, the Company de-energized the line to Mr. Lee's home to address a public safety hazard. The Company attempted to contact the customer on several occasions. While an argument could be made that BHE should have attempted to call Mr. Lee earlier at his permanent residence in Winthrop, ultimately, the responsibility for maintaining and monitoring the serviceability of a customer's own equipment ultimately must rest with the customer. We, therefore, uphold the December 4, 2000 decision of the CAD and thus decline to investigate this matter further.

Dated at Augusta, Maine, this 23rd day of January, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

¹ Mr. Lee's letter to the Commission recognized that his appeal was filed beyond the five-day appeal period. Mr. Lee requested that his appeal be considered since he was away when the decision arrived. A decision of the CAD can be appealed to the Commission by filing a notice of appeal within five (5) business days after the date of decision. MPUC Rules, ch. 81, § F(1). The Commission may, however, permit deviation from the procedural requirements of any rule where good cause exists. MPUC Rules, ch. 110, § 103. Good cause appearing therefore, we grant Mr. Lee's request for an extension of the time to file his appeal and thus allow his appeal to go forward.

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.